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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/735,192	12/11/2000	Brian E. Mensinger	EH-10177A	7385

7590

02/02/2004

Pratt & Whitney
Patent Department
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EXAMINER

LEE, WILSON

ART UNIT	PAPER NUMBER
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2821

DATE MAILED: 02/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/735,192

Applicant(s)
Mensinger

Examiner
Wilson Lee

Art Unit
2821



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Dec 11, 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 10-14 is/are allowed.
- 6) ☒ Claim(s) 1-9 and 15-17 is/are rejected.
- 7) ☒ Claim(s) 18-21 is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) ☐ Other:

Double Patenting Rejections

A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

Claims 1-9 are rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1-9 of prior U.S. Patent No. 6,196,889. This is a double patenting rejection.

Regarding Claims 1-9, the prior patent discloses an invention being identical to the claimed invention. The patent discloses a method comprising providing an electron gun having a first head and an accelerating electrode, the first head having a power rating and a thermionic electron source, replacing the first head with a second head, subsequently operating the electron gun without replacing the accelerating electrode.

Claim Rejections – 35 U.S.C. 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 15-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Johnson et al. (3,714,489).

Regarding Claim 15, Johnson discloses an apparatus (See Figures 4B, 8B and 10) for an electron gun, the apparatus comprising:

- a head (the schematic shown in Figure 4B) having a thermionic electron source (47) that extends in a longitudinal direction;
- an accelerating electrode (183) (See Figure 8B);
- a platform (98) that supports the head; and
- at least one platform support (81, 83) supported by the accelerating electrode (183) and having a support surface (82) that is adjustably spaced from the accelerating electrode (183) and supports the platform (98).

Regarding Claim 16, Johnson discloses that one platform support comprises an insulator (81), an insulator cover (83), and a support member (109), the insulator cover is retained to insulator (81) and has an engagement surface, and the support member (109) has the support surface (the surface of support member 109) disposed thereon and engages the engagement surface to adjustably space the support surface from the accelerating electrode (183).

Regarding Claim 17, Johnson discloses that the engagement surface of the insulator cover (83) comprises a plurality of threads (the holes that receives threaded bolts 119), and the support member (109) is a support ring (123) with a plurality of threads that engage the threaded engagement surface of the insulator cover.

Allowable subject matter

Claims 18-21 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 10-14 are allowed.

The following is an examiner's statement of reasons for allowance:

The prior art fails to disclose a platform positioned spaced apart from the accelerating electrode and having one locating member adjustably located on the platform, the location of the locating member being adjustable by at least nine millimeters in a direction transverse to the longitudinal direction such as required by claim 10.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

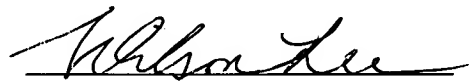
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Mensinger (6,455,990) discloses an apparatus for an electron gun employing a thermionic electron source. Say (3,702,020) discloses an electrode alignment and assembling device.

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Correspondence

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Wilson Lee whose telephone number is (571) 272-1824 and fax number is (571) 273-1824.

Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center receptionist whose telephone number is (703) 308-0956.

A handwritten signature in black ink, appearing to read "Wilson Lee", written over a horizontal line.

Wilson Lee
Primary Examiner
U.S. Patent & Trademark Office

WL
1/26/04